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IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P. NO.3091/2003 **Single Bench**

PETITIONER

Smt. Karuna Dubey
Aged about 39 years
W/O Shri Narendra
Kumar Dubey
R/O Civil Lines
Mahasamund
District Mahasamund
Posted as Assistant
Professor (Chemistry)
Government College
Mahasamund
District Mahasamund
(Chhattisgarh)

P. R. No. 2995/03
Presented by shri B.K. Dubey
Dated 29/09/03

VERSUS

RESPONDENTS

1. State of Chhattisgarh
Through the Principal
Secretary'
Department of Higher
Education, D.K.S.
Bhavan, Raipur
(Chhattisgarh)
2. Additional Secretary
Government of C.G.
Higher Education,
Technical Education,
Man Power Resources
Science Industrial
Department, DKS Bhavan
Raipur (Chhattisgarh)
3. Principal
Government College
Mahasamund
District Mahasamund
(Chhattisgarh)
4. Principal
Government College
Dantewada
Distt. Dantewada
(Chhattisgarh)

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29/9/03
CLERK TO A.G. BILASPUR

शपथ आयुक्त
एम. के. शुक्ला
26/9/03

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ENFORCEMENT OF LEGAL RIGHTS OF THE PETITIONER BY WAY OF ISSUANCE OF ANY WRIT OR DIRECTION OR ORDER.

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 3091of 2003

Petitioner : Smt. Karuna Dubey

Versus

Respondents : State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri Anand Kumar Tiwari, counsel for the Petitioner.

Shri Pankaj Shrivastava, Panel lawyer for the respondents/State.

ORDER

(22nd February, 2006)

1. The petitioner was working as Assistant Professor (Chemistry) in the Government College, District-Durg. Vide impugned transfer dated 16.9.2003 he was transferred to the Government College, Dantewada. The petitioner has filed this petition impugning the transfer order dated 16.9.2003 on the ground that there was no administrative exigency.

2. This Court by interim order dated 29.10.2003 directed that the petitioner should not be relieved from the present place of posting, if already not relieved, till the next date of hearing.

3. Learned counsel for the petitioner submits that by virtue of this court's order dated 29.10.2003, the petitioner has continued on the same old place of posting and the impugned order was never given effect to in respect of the petitioner. The petitioner has been granted final relief by interim order.

4. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to

interfere in the transfer matter and this Court can interfere only in the case of proved malafide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations. The petitioner/employee cannot be permitted to remain at one place, forever, by Court orders. At this stage, it is not necessary to examine validity of the transfef order. In the facts of the case, the respondents are directed not to insist upon compliance of the impugned transfer order.

5. This petition has become infructuous with the passage of time. Accordingly the petition is dismissed as having become infructuous. However, the respondents/authorities are at liberty to pass appropriate order for posting the petitioner in the public interest and administrative exigency, in accordance with law. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu